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Hawaiian Gazette. WEDNESDAY, NOVEMBER 29, 1882.

K. Jubey vs. J. W. Puni et. al., before Mr.

d defendant in respect to the crup of 23 es of sugar cane at Keloa, Kanai, grown

Neither of the partners is a business mun. The evidence as to their transactions with ach other is vague and, in important respects, I will endeavor to summarize the several tems of testimony offered for the determina-tion of the case and comment on their bearing

of shipping men for the enterprise. This let-ter was imperfectly rendered into English at the trial. I have given it some study since. The writing is not always clear, and I think it is characterized by the imperfect, broken native which some Hawaiians use in address.

it as fellows:

Koloa July 29th 1878

To Jurky, Japanese, Pelekane, Ronolule.

Aloha between us:—I have received your letter speaking of Hackfeld & Co.'s shipping (men) in the name of J. W. Wright & Co. for the Koloa Company. So let my name be written outside the shipping contract, that they are to labor with me for the time they contract. I to refund the money formerly paid on the land. (?) Just as we formerly spoke of so in all respects shall it be. Don't forget to give aloha to Umeke and Koko. If you want Koko to come back here let him come. I am rot angry with you as your letter indicates.

cates.

Jube, don't fail to look up shipped men. If (or when) you get five men, return and we two will unite in raising cane—so I did with Kians, Chinaman; I didn't trick him. I divided equally the money with him. It was done the same by John Hobbs. We know shout that. His kanakas remained with him till his death. Truly, Amen. With much aloin, J. W. Punt, Kolea.

Defendant's testimony concerning this letter

Defendant's testimony concerning this letter is that the partnership which had been proposed depended on plaintiff's furnishing capital. He no where shows how much capital was required from plaintiff, and that as plaintiff falled to get capital the project of partnership falled and plaintiff labored for defendant or water.

ship failed and plaintiff ratored to determine on wages.

But plaintiff testifies that he did furnish \$558, and it was with that mousy he went to Honolulu, paid his expenses and the advances of such men as he got. He produces the labor contract of one man shipped to himself.

My inference from this section of the testiment is that the parties had come to their agreement as to partnership and that the plaintiff came to Honolulu in pursuance of the partnership. The plaintiff selmite in his statement of the amount he farmished, the defendant does not say how much he required. He makes a general denial of plaintiff's centributing any thing. Besides it will be seen the partnership was based on the plaintiff contributing most

the crop.

The defendant admits this, but says that the boards were of but listle value and that he blamed the plaintiff for sending them at charge for the freight. But why should plaintiff have sent them and defendant have jut them into this house, if they were not partners but employer and comployee. The defendant testifies that he hands are lamber to the same lamber to the same and this its a motion to set aside the verdict as contrary to the evidence.

We have examined the evidence carefully and find them sufficient proof of the plaintiff's dains to exist the them to exist the same and the same are the same and the same are the same and the same are the sa

ployer and employee. The defendant testifies that he bought new lumber, but the value of it was less than \$50, and the whole house was of but little value, and plaintiff contributed a considerable portion at least towards it.

Considerable

who testify to hearing an agreement for labo at \$15 per menth and found. I give quite as much credit to the former as he latter, but determine the case upon the A book of accounts is produced.

for the first part of it is fille. With Japanese writing. The accounts relating to this business were kept in a rude way, by defendant. Why does plaintiff furnish the book for the defendant if he were defendant's hired man? The accounts are the reckening with the laborers, beginning at page 156, (as I have restored the paging where the corners have been cut out by the Japanese plaintiff to suit his purpose of marginal reforence.) In the hand-writing of defendant the heading is Buki Hookni i na la hana (a) kanaka (o) J. W. Puni (a me) Kupe Jap.

This is in broken native, as the letter was, I translate it thus, "Partnership book, of the working days of laborers of J. W. Puni and Jupe Japanese."

Jupe Jupanese."
The first entry on this page is Oct. 5th 1878 and the last is April 5th 1879.
The accounts of different laborers each on a page, are continued, in the hand-writing of defendant, with the exption of the two names Pani and Jube, to page 173 except pages 170 and 171.

and 171.

Beyond p. 17s the pages are headed by Puni's name alone. The first entry being dated Feb'y 5th 1880. Some entries under Pani and Jube are to December 1879. See page 173.

On page 173 there is some account, of figures and dates, but without explanation, with Jube's name at the top, but without as upper caption as all the laborer's have.

This may be an account of money drawn by This may be an account of money drawn by plaintiff. The dates, the 5th of the month correspond with the dates in the other accounts from which it appears that they drew money and paid hands on the fifth of every month. These amounts are small, not the wages of \$15 per month.

These amounts are small, not the wages of \$15 per month.

The defendant charges, in testimony, that the plaintiff berrowed the book and cut out the plaintiff berrowed the book and cut out the leaves containing his own account. There are leaves cut out between p. 330 and p. 337, that is in the back part of the book, and very far suparated from the neighborhood where the other accounts of these parties are kept. The plaintiff denies cutting them, and says that they were cut out by the defendant to obtain blank paper.

tain blank paper.

I adopt the latter view. I do not think it probable that the plaintiff would cut out his account, for by any showing he has not drawn what would be his share in the partnership.

The book therefore, in my view, strongly supports the theory of a partnership.

DEALLINGS WITH THE ROLDA SUGAR COM-

Mr. Wright, the Manager and President of the Kolea Sugar Plantation and Company, and Mr. Rahlbaum, the book-keeper and cashier had their dealings only with the defendant. They knew that the plaintiff was the long, this working manager. He brought the pay-lists stating the amount of wages, and the money required. Wright and Kahlbaum would pay nothing without Puni's order. This merely shows their knowledge or want of knowledge of the business relation which might subsist between Puni and Jubey, but it does not negative the fact of partnership. It is consistent with all the circumstances of this case that half the circumstances of this casheald know Puni as the responsible his case, and know little of Juboy.

mi, was in their comployment, dent of Kolon, standing very high them, as Mr. Wright teatifies. Ju

Four of the lists for monthly stages at exhibited, in which Jubey puts himself down or \$20, \$15, \$15, and \$30, and pr. of shoe

my view Puni was the chief capitalisi, as Jubey was the working manager of the partnership. Jubey may have secured \$15 per month certain for his labor, if the appeculation should not afford him any more. Differences in their private drafts can be adjusted in the settlement of partnership accounts.

When the first crop was off defendant paid plaintiff \$150. He says it was a gift. He also says that in the cogagement with plaintiff \$151 and food per month, he told him that if he wanted \$20 per month he would give it to him, but that he continued at \$15 per month. Now it may be that defendant made a present of \$150 (Mr. Rahibaum says he asked for an order for \$250 for that purpose) to the plaintiff. And it may be that plaintiff labored at a monthly stipend of \$15, when he could have had \$20 by asking for it, and labored so realously that it was remarked upon by Wright and Kahlbaum, but my inference is that he drew the leaser sum that he might have more to his credit from the crop, and that the defendant made him the "present" of \$150 in hopes he might accept it as his share of the proceeds. The earnost assurance in the letter above cited, that he had been fair in some former enterprise of this kind and had not cheated his partner, and the effort to remove some anger on the part of the plaintiff gives me an impression that Pani left that Juley had some reason to be supsicious of his fair dealing. There are indications in this case of deceltful dealing. Pani is the more intelligent and experienced man. Jubey at some disadvantages of ignorance of language and inesperience.

I have little to say about the dealings with the ratizon crop. Jubey labored on it for six

I have fittle to say about the dealings with the raticon crop. Jubey labored on it for six menths. It did not need irrigating. It grow very well, Mr. Wright says it has brought more than be expected. It does not appear that Jabey neglected his business, but he may have had reason to distruct his pariner by that time that he locked out for something class to do. He does not abandon his claim to proceeds, and now comes into Court when he

else to do. He does not abandon his claim to proceeds, and now comes into Court when he mude that Puni has hypothicated them.

If he is found to be a partner for the plant cane it follows that he is a partner for the ratton crop on which he labored.

Thus I find a partnership and it is ordered that both parties hereto make their accounts before D. R. Fyfe Esq., Deputy Clerk, with reference to the Court for confirmation and final decree, the Injunction to remain in force pending such proceedings.

F. M. Hatch for plaintiff. W. O. Smith for defendant.

Mole Holelns, Maris Apai and husband, and Kailiuli vs. Keoni Kapu, (k.) Judd, C. J., McCully and Austin, J. J.

OFINION OF THE COURT BY JUDD, C. J. This is an action of ejectment to recover on andivided half of certain parcels of land in the District of Honolulu, granted by Royal Paten Sec. 7167 to one Holelua.

The plaintiff, Kailiuli, claims to be the vidow of Kane, deceased, who was the broth to of Holelua.

widow of Kane, deceased, who was the brein-er of Holelus, the patentee.

The plaintiffs, Maria (Coffin) Apai and Mele Holelus, claim to be daughters of Hispo, who they claim was the daughter of Kane by Ke-koushs, a former so-called "wife," whom he had before he took Pouli, his wife by Christian not Kane, was the father of Hiapo.
It admitted that Kecni Kapu was the son of

application for letters of administration on the estate of Kane is not agnificant. They were young then, and perhaps ignorant of their rights, and they not having been made parties to the proceedings in the Probate Court, are not bound by them.

6. The statement of Maria Apai that she was not a party to the anit and

or relationship to Kane, is rather surprising ut it went to the jury, and we do not think i afficient ground upon which to set as it the FLOOR OILCLOTHS, It was not claimed that this had the effect of a disclaimer. If, by parol, it was not valid. See 10, Johnson; 366, Exceptions overruled. J. M. Davidson for plaintiffs; S. B. Dole for efendants.

ot a party to the sait, and was not aware o

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